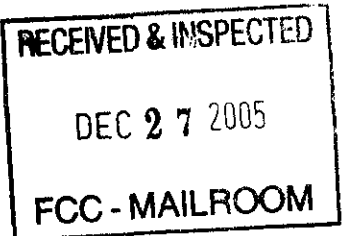


ORIGINAL

**Before the
Federal Communications Commission
Washington, D.C. 20554**



In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 05-279
Table of Allotments,)	RM-11276
FM Broadcast Stations.)	
(Old Forge and Black River, New York))	
)	

To: Assistant Chief, Audio Division, Media Bureau:

COMMENTS OF CLANCY-MANCE COMMUNICATIONS, INC.

Clancy-Mance Communications, Inc. ("Clancy-Mance"), by its counsel, herewith submits its Comments in the above-captioned rulemaking proceeding. In support whereof, the following is stated:

1. By Notice of Proposed Rulemaking ("NPRM") released November 4, 2005, the Audio Division requests comments on a proposal by Radioactive, LLC ("Petitioner") to reallocate Channel 223A from Old Forge to Black River, New York. Clancy-Mance is the licensee of WATN, Watertown, NY, and WTOJ (FM), Carthage, NY. If Channel 223A is allocated to Black River, it would compete with WATN and WTOJ for audience and revenue in the Watertown radio market.

2. Petitioner states that the proposal would provide a first local service at Black River but would not result in the loss of existing local transmission service or aural reception service at Old Forge because the station is not constructed. That statement is only "technically" correct because the station is not yet on the air. However, the proposed move will result in a critical loss of first FM reception to a substantial population (2,248 persons) as demonstrated in the Engineering Statement attached as Exhibit 1 hereto.

3. Moreover, the proposed move sacrifices a first FM service to 2,248 persons to place the station in the substantially urban Watertown market. Considered as such, this move is clearly contrary

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to the purposes of Section 307(b) of the Communications Act of 1934, as amended. The comparison of Old Forge and Black River does not adequately describe the nature of this move, which will eliminate a substantial first FM reception service in the existing predicted contour area as well as the loss of a first transmission service to Old Forge. This substantial loss of service is contrasted with the proposed move of the station into the urban Watertown market (albeit not technically defined as an Urbanized Area) that is presently well served by a number of stations.

4. The Commission stated in the NPRM that the construction permit for Channel 233A at Old Forge is not constructed and that the loss of a potential service does not raise the same level of concern as that of an existing service, citing *Pelham and Meigs, Georgia*, 18 FCC Rcd 12187 (MB 2003). Although the Commission held in *Pelham* that the loss of potential service does not raise the same level of concern as the loss of an existing service, the Commission did not hold that the loss of potential service should never be considered. It is respectfully submitted that the instant case raises serious concerns that should be taken into consideration by the Commission, particularly in light of the critical loss of first FM reception service demonstrated in Exhibit 1 hereto.

5. Attached as Exhibit 2 is a letter from Robert A. Moore, Supervisor for the Town of Webb, the political jurisdiction in which Old Forge is located. As indicated by Mr. Moore, the Town of Webb is the largest township by area in the entire State of New York. The loss of this proposed radio station to the largest township in New York would be devastating to its future. The economy of this area is dependent on tourism, and the proposed radio station is vital to the promotion of the area's tourism industry.

6. In considering the loss involved, Mr. Moore properly indicates that Old Forge is a part of the Town of Webb, which has a population of 1,912 persons (Exhibit 2, p. 2). In contrast Black River has a population of only 1,285 (Exhibit 2, p. 3) and is located only 7.82 miles from Watertown (Exhibit 2, p. 4). By moving from Herkimer County to Jefferson County, where Watertown is located, the station will become a *de facto* Watertown radio station. As presently

allocated, the station would be approximately sixty (60) miles from Watertown. Although Watertown is not currently defined as an "urbanized" area, this proposed move is analogous to a move from a rural area to an urbanized area and should be given critical review in light of the obvious intent to move from its current rural community to the Watertown market, which is the only substantially urban community in this part of the State.

7. In light of the above factors, particularly the loss of first FM service to 2,284 persons, the proposed move of this station from Old Forge to Black River (a suburb of Watertown) will not serve the public interest, convenience, and necessity. The rulemaking should be denied.

Respectfully submitted,

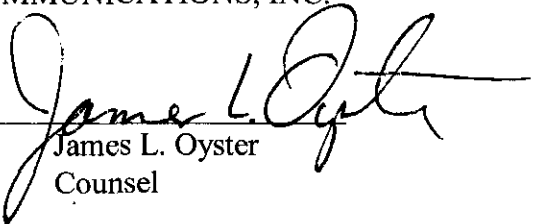
Law Offices
JAMES L. OYSTER
108 Oyster Lane
Castleton, Virginia 22716-2839

(540) 937-4800

December 23, 2005

CLANCY-MANCE
COMMUNICATIONS, INC.

By


James L. Oyster
Counsel

CERTIFICATE OF SERVICE

James L. Oyster hereby certifies that he has sent a copy of the foregoing Comments by first class U.S. mail, postage prepaid, on or before the 23rd day of December, 2005, to the following:

Radioactive, LLC
c/o Marissa G. Repp, Esquire
Hogan & Hartson L.L.P.
555 Thirteenth Street, N.W.
Washington, D.C. 20004-1109

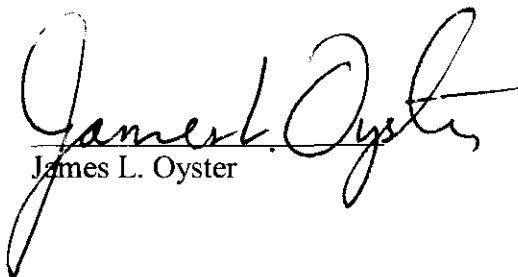

James L. Oyster

EXHIBIT 1

ENGINEERING STATEMENT

CLANCY-MANCE COMMUNICATIONS, INC.
Watertown, NY

FM CONTOUR STUDY

This engineering study, with attached exhibit map (Figure 1), was prepared on behalf of Clancy-Mance Communications, Inc., licensee of WATN(AM), Watertown, NY and WTOJ(FM), Carthage, NY. This office has studied the proposed FM rulemaking RM-11276 to move FM channel 223A from Old Forge, NY to Black River, NY. Old Forge presently has no commercial FM facility serving the community.

Using the reference coordinates of N 43-42-04 W 74-58-20 and assuming Channel 223A operates with 6 kW at 100 meters above average terrain at Old Forge, NY, the predicted 60 dBu service contour is depicted on Figure 1. All pertinent FM service contours tangent to the Old Forge, NY area have also been depicted on the map. It will be noted that the shaded area within the Old Forge 60 dBu contour has a population of 2248 persons, per the 2000 US Census, and would receive no FM service if Channel 223A is moved to Black River, NY. Figure 1 also shows that the proposed Black River 60 dBu contour covers no area that is presently unserved.

December 21, 2005

William J. Sitzman
Consulting Radio Engineer

Contour study showing unserved area near Old Forge, NY if CH223A moves to Black River, NY

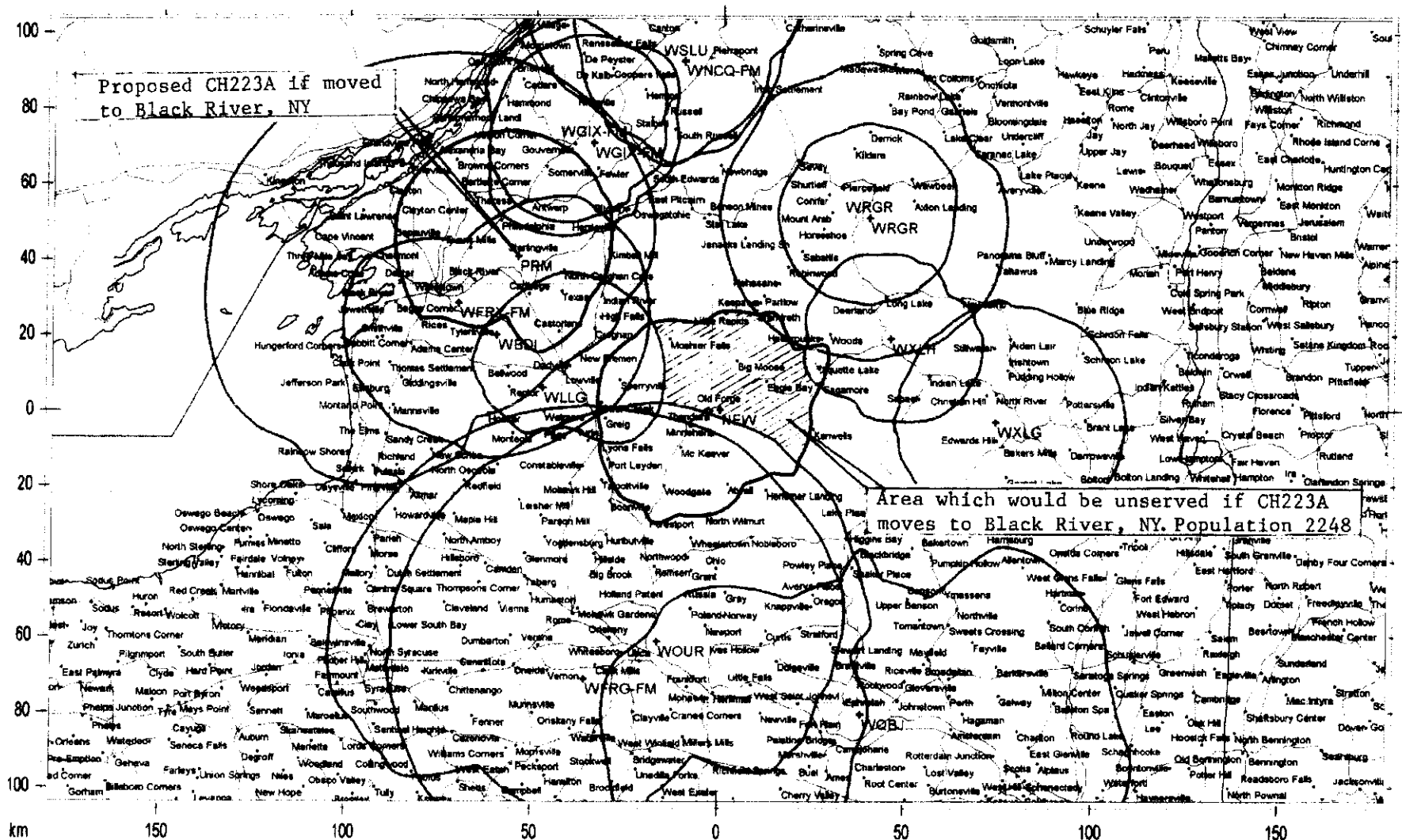


EXHIBIT 2

LETTER FROM ROBERT A. MOORE,
SUPERVISOR
TOWN OF WEBB



TOWN OF WEBB

BARBARA A. HARRINGTON - Councilwoman
Old Forge, New York

DANFORTH J. RIVET JR. - Councilman
Old Forge, New York

MICHAEL A. ROSS - Councilman
Old Forge, New York

DAVID P. WINSLOW - Councilman
Old Forge, New York



ROBERT A. MOORE • SUPERVISOR

NANCY T. RUSSELL - Town Clerk
Old Forge, New York

CASEY C. CROFUT - Highway Superintendent
Old Forge, New York

CAROL D. RIVET - Tax Collector
Old Forge, New York

December 17, 2005

Federal Communications Commission
Office of the Secretary
445 Twelfth Street, SW, TW – A325
Washington, D.C. 20554

Re: MB Docket # 05 – 279 / RM – 11276. Reallotment of Channel 223A from Old Forge (Town of Webb) to Black River, New York.

Dear Sir or Madam:

The Town of Webb takes issue with and opposes the proposed reallotment of the commercial FM channel 223A from its current assignment here in Old Forge (Town of Webb) to Black River, New York.

Old Forge, a Hamlet within the boundaries of the Town of Webb is only one component of the community. Several other Hamlets exist within the town's boundaries.

The Town of Webb is the largest township by area in New York State covering 466 square miles. Our economy is based and primarily dependent on tourism.

The reallotment / loss of Commercial FM channel 223A from this area would prohibit the future opportunity to utilize it to promote tourism in this area.

I fear that once relinquished, this media opportunity will not reoccur for this community.

Thank you for your time and consideration of this critical matter.

Respectfully yours,

Robert A. Moore, Supervisor


FACT SHEET
Webb town, Herkimer County, New York
Census 2000 Demographic Profile Highlights:
General Characteristics - show more >>

	Number	Percent	U.S.		
Total population	1,912			map	brief
Male	941	49.2	49.1%	map	brief
Female	971	50.8	50.9%	map	brief
Median age (years)	42.9	(X)	35.3	map	brief
Under 5 years	73	3.8	6.8%	map	
18 years and over	1,526	79.8	74.3%		
65 years and over	338	17.7	12.4%	map	brief
One race	1,899	99.3	97.6%		
White	1,873	98.0	75.1%	map	brief
Black or African American	13	0.7	12.3%	map	brief
American Indian and Alaska Native	5	0.3	0.9%	map	brief
Asian	5	0.3	3.6%	map	brief
Native Hawaiian and Other Pacific Islander	0	0.0	0.1%	map	brief
Some other race	3	0.2	5.5%	map	
Two or more races	13	0.7	2.4%	map	brief
Hispanic or Latino (of any race)	17	0.9	12.5%	map	brief
Household population	1,866	97.6	97.2%	map	brief
Group quarters population	46	2.4	2.8%	map	
Average household size	2.21	(X)	2.59	map	brief
Average family size	2.72	(X)	3.14	map	
Total housing units	3,833			map	
Occupied housing units	845	22.0	91.0%		brief
Owner-occupied housing units	643	76.1	66.2%	map	
Renter-occupied housing units	202	23.9	33.8%	map	brief
Vacant housing units	2,988	78.0	9.0%	map	

Social Characteristics - show more >>

	Number	Percent	U.S.		
Population 25 years and over	1,421				
High school graduate or higher	1,290	90.8	80.4%	map	brief
Bachelor's degree or higher	378	26.6	24.4%	map	
Civilian veterans (civilian population 18 years and over)	307	19.6	12.7%	map	brief
Disability status (population 5 years and over)	300	16.1	19.3%	map	brief
Foreign born	39	2.0	11.1%	map	brief
Male, Now married, except separated (population 15 years and over)	489	60.1	56.7%		brief
Female, Now married, except separated (population 15 years and over)	482	58.2	52.1%		brief
Speak a language other than English at home (population 5 years and over)	108	5.8	17.9%	map	brief

Economic Characteristics - show more >>

	Number	Percent	U.S.		
In labor force (population 16 years and over)	958	59.2	63.9%		brief
Mean travel time to work in minutes (workers 16 years and over)	15.4	(X)	25.5	map	brief
Median household income in 1999 (dollars)	35,541	(X)	41,994	map	
Median family income in 1999 (dollars)	43,516	(X)	50,046	map	
Per capita income in 1999 (dollars)	19,910	(X)	21,587	map	
Families below poverty level	25	4.5	9.2%	map	brief
Individuals below poverty level	166	8.8	12.4%	map	

Housing Characteristics - show more >>

	Number	Percent	U.S.		
Single-family owner-occupied homes	506				brief
Median value (dollars)	115,800	(X)	119,600	map	brief
Median of selected monthly owner costs	(X)	(X)			brief
With a mortgage (dollars)	920	(X)	1,088	map	
Not mortgaged (dollars)	329	(X)	295		

(X) Not applicable.

Source: U.S. Census Bureau, Summary File 1 (SF 1) and Summary File 3 (SF 3)

3



U.S. Census Bureau
American FactFinder

FACT SHEET

Black River village, New York

Census 2000 Demographic Profile Highlights:

General Characteristics - show more >>

	Number	Percent	U.S.		
Total population	1,285			map	brief
Male	615	47.9	49.1%	map	brief
Female	670	52.1	50.9%	map	brief
Median age (years)	37.4	(X)	35.3	map	brief
Under 5 years	76	5.9	6.8%	map	
18 years and over	952	74.1	74.3%		
65 years and over	177	13.8	12.4%	map	brief
One race	1,264	98.4	97.6%		
White	1,182	92.0	75.1%	map	brief
Black or African American	34	2.6	12.3%	map	brief
American Indian and Alaska Native	6	0.5	0.9%	map	brief
Asian	35	2.7	3.6%	map	brief
Native Hawaiian and Other Pacific Islander	0	0.0	0.1%	map	brief
Some other race	7	0.5	5.5%	map	
Two or more races	21	1.6	2.4%	map	brief
Hispanic or Latino (of any race)	17	1.3	12.5%	map	brief
Household population	1,285	100.0	97.2%	map	brief
Group quarters population	0	0.0	2.8%	map	
Average household size	2.47	(X)	2.59	map	brief
Average family size	2.89	(X)	3.14	map	
Total housing units	556			map	
Occupied housing units	521	93.7	91.0%		brief
Owner-occupied housing units	339	65.1	66.2%	map	
Renter-occupied housing units	182	34.9	33.8%	map	brief
Vacant housing units	35	6.3	9.0%	map	

Social Characteristics - show more >>

	Number	Percent	U.S.		
Population 25 years and over	858				
High school graduate or higher	762	88.8	80.4%	map	brief
Bachelor's degree or higher	180	21.0	24.4%	map	
Civilian veterans (civilian population 18 years and over)	189	21.7	12.7%	map	brief
Disability status (population 5 years and over)	180	16.1	19.3%	map	brief
Foreign born	53	4.1	11.1%	map	brief
Male, Now married, except separated (population 15 years and over)	322	67.1	56.7%		brief
Female, Now married, except separated (population 15 years and over)	323	59.7	52.1%		brief
Speak a language other than English at home (population 5 years and over)	84	7.0	17.9%	map	brief

Economic Characteristics - show more >>

	Number	Percent	U.S.		
In labor force (population 16 years and over)	666	66.5	63.9%		brief
Mean travel time to work in minutes (workers 16 years and over)	16.9	(X)	25.5	map	brief
Median household income in 1999 (dollars)	45,761	(X)	41,994	map	
Median family income in 1999 (dollars)	54,236	(X)	50,046	map	
Per capita income in 1999 (dollars)	20,524	(X)	21,587	map	
Families below poverty level	11	3.0	9.2%	map	brief
Individuals below poverty level	77	6.1	12.4%	map	

Housing Characteristics - show more >>

	Number	Percent	U.S.		
Single-family owner-occupied homes	304				brief
Median value (dollars)	78,000	(X)	119,600	map	brief
Median of selected monthly owner costs	(X)	(X)			brief
With a mortgage (dollars)	945	(X)	1,088	map	
Not mortgaged (dollars)	353	(X)	295		

(X) Not applicable.

Source: U.S. Census Bureau, Summary File 1 (SF 1) and Summary File 3 (SF 3)

(4)

MAPQUEST.

START Watertown, NY 13601,
US









END Black River, NY US

Total Est. Time:
14 minutes

Total Est. Distance:
7.82 miles

Maneuvers

Distance

- | | | |
|---|--|------------|
|  | 1: Start out going NORTHWEST on COFFEEN ST / NY-12F toward US-11 / NY-12 / N MASSEY ST. | <0.1 miles |
|  | 2: Turn LEFT onto US-11 / NY-12 / N MASSEY ST. | 0.1 miles |
|  | 3: Turn LEFT onto ARSENAL ST / NY-12 / NY-3. Continue to follow NY-12 S / NY-3 N. | 1.8 miles |
|  | 4: Turn LEFT onto NY-3 / EASTERN BLVD. Continue to follow NY-3. | 5.1 miles |
|  | 5: Turn LEFT onto S MAIN ST. | 0.4 miles |
|  | 6: Turn LEFT onto W DEXTER ST. | <0.1 miles |
|  | 7: W DEXTER ST becomes JEFFERSON PL. | <0.1 miles |
|  | 8: End at Black River, NY US | |

Total Est. Time: 14 minutes **Total Est. Distance:** 7.82 miles